

AMENDED IN SENATE APRIL 28, 2010  
AMENDED IN SENATE MARCH 25, 2010

**SENATE BILL**

**No. 1411**

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**Introduced by Senator Simitian**

February 19, 2010

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An act to add Section 528.5 to the Penal Code, relating to impersonation.

LEGISLATIVE COUNSEL'S DIGEST

SB 1411, as amended, Simitian. Impersonation: Internet.

Existing law makes it a crime to falsely impersonate another in either his or her private or official capacity, as specified. Existing law also makes it a crime to knowingly access and, without permission, alter, damage, delete, destroy, or otherwise use any data, computer, computer system, or computer network in order to devise or execute any scheme or artifice to defraud, deceive, or extort, or wrongfully control or obtain money, property, or data. For a violation thereof, in addition to specified criminal penalties, existing law authorizes an aggrieved party to bring a civil action against the violator, as specified.

This bill would ~~make the knowing impersonation of any other~~ *provide that any person who knowingly and without consent credibly impersonates another* person through or on an Internet Web site or by other electronic means, as ~~defined specified~~, for purposes of ~~injuring, defrauding, or, in bad faith, deceiving another person, or of obtaining a benefit in bad faith, harming, intimidating, threatening, or defrauding another person is guilty of a misdemeanor.~~ The bill would, in addition to the specified criminal penalties, ~~authorize an aggrieved party a person who suffers damage or loss~~ to bring a civil action against any person

who violates that provision, as specified. Because the bill would create a new crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 528.5 is added to the Penal Code, to read:  
2 ~~528.5. (a) Any person who knowingly impersonates, in any~~  
3 ~~manner, or pretends to be any other person through or on an~~  
4 ~~Internet Web site or by other electronic means for any of the~~  
5 ~~following purposes is guilty of a public offense punishable pursuant~~  
6 ~~to subdivision (c):~~  
7 ~~(1) To injure, defraud, or, in bad faith, deceive another person.~~  
8 ~~(2) To obtain a benefit in bad faith.~~  
9 528.5. (a) Any person who knowingly and without consent  
10 credibly impersonates another person through or on an Internet  
11 Web site or by other electronic means for purposes of harming,  
12 intimidating, threatening, or defrauding another person is guilty  
13 of a public offense punishable pursuant to subdivision (d).  
14 (b) For purposes of this section, an impersonation is credible  
15 if another person would reasonably believe, or did reasonably  
16 believe, that the defendant was or is the person who was  
17 impersonated.  
18 ~~(b)~~  
19 (c) For purposes of this section, “electronic means” shall include  
20 opening an e-mail account or an account or profile on a social  
21 networking Internet Web site in another person’s name.  
22 ~~(c)~~  
23 (d) A violation of subdivision (a) is punishable by a fine not  
24 exceeding ~~ten thousand dollars (\$10,000)~~ one thousand dollars  
25 (\$1,000), or by imprisonment in a county jail not exceeding one  
26 year, or by both that fine and imprisonment.  
27 ~~(d)~~

1 (e) In addition to any other civil remedy available, ~~an aggrieved~~  
2 ~~party~~ *a person* who suffers damage or loss by reason of *a* violation  
3 of subdivision (a) may bring a civil action against the violator for  
4 compensatory damages and injunctive relief or other equitable  
5 relief pursuant to paragraphs (1), (2), (4), and (5) of subdivision  
6 (e) and subdivision (g) of Section 502.

7 SEC. 2. No reimbursement is required by this act pursuant to  
8 Section 6 of Article XIII B of the California Constitution because  
9 the only costs that may be incurred by a local agency or school  
10 district will be incurred because this act creates a new crime or  
11 infraction, eliminates a crime or infraction, or changes the penalty  
12 for a crime or infraction, within the meaning of Section 17556 of  
13 the Government Code, or changes the definition of a crime within  
14 the meaning of Section 6 of Article XIII B of the California  
15 Constitution.